

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

KENNEDY CENTER  
Respondent

Case No.: I-00-11212

---

**FINAL ORDER**

**I. Introduction**

On June 25, 2001, the Government served a Notice of Infraction upon Respondent Kennedy Center alleging that it violated 20 DCMR 900.1, which prohibits, with certain exceptions, motor vehicles from idling their engines for more than three minutes while parked, stopped or standing. The Notice of Infraction alleged that the violation occurred on May 25, 2001 in the 900 block of 23<sup>rd</sup> Street N.W., and sought a fine of \$500.00.

On June 29, 2001, Respondent filed a plea of Admit with Explanation, together with a request for suspension or reduction of the fine. On July 3, 2001, I issued an order permitting the Government to respond to that plea and request within ten days. That deadline has passed without a response from the Government.

## **II. Summary of the Evidence**

Respondent states that it operates shuttle bus service between a Metro station and the Kennedy Center. It has instructed its drivers to wait at the bus stop for all passengers from an arriving Metro train, including those who use the elevators because they are unable to walk on the escalators. Respondent states that it was unaware of the engine idling regulation and suggests that a representative of the Department of Health should have advised it that it risked a fine if its shuttle buses idled their engines at the bus stop. Now that it is aware of the regulation, Respondent states that it has instructed its drivers to turn off their engines if they must wait for more than three minutes. It also expresses the belief that its bus service has had an overall positive impact on air quality by encouraging its patrons and employees to take public transportation to Kennedy Center events instead of driving.

## **III. Findings of Fact**

1. By its plea of Admit with Explanation, Respondent has admitted violating 20 DCMR 900.1 on May 25, 2001.
2. On May 25, 2001, a bus operated by Respondent idled its engine for more than three minutes in the 900 block of 23<sup>rd</sup> Street N.W. I take judicial notice that the entrance to the Foggy Bottom Metro Station is located in that block.
3. Respondent has accepted responsibility for its violation.
4. Respondent has taken steps to avoid future violations by informing its drivers of the regulation and instructing them to turn off their engines if they must wait at the bus stop for more than three minutes.

5. There is no evidence that Respondent has a history of prior violations.
6. Respondent's violation was unintentional, as it was unaware of the regulation.

#### **IV. Conclusions of Law**

1. Because Respondent's bus idled its engine for more than three minutes while parked, it violated 20 DCMR 900.1. A fine of \$500.00 is authorized for that violation. *See* 16 DCMR 3224.3(aaa), as added by the Motor Vehicle Excessive Idling Fine Increase Amendment Act of 1999, D.C. Law 13-35 (Effective October 7, 1999); 46 D.C. Reg. 8699 (October 29, 1999); 46 D.C. Reg. 6017 (July 23, 1999).
2. Respondent's argument that it should have been warned before issuance of the Notice of Infraction does not warrant a suspension of the fine. The regulation itself provides all the notice that is legally required. *Bruno v. District of Columbia Board of Appeals and Review*, 665 A.2d 202, 204 (D.C. 1995). Nevertheless, the unintentional nature of the violation, the lack of a prior history of violations, Respondent's acceptance of responsibility, and its efforts to prevent future violations warrant a reduction in the amount of the fine. The fine, therefore, will be reduced to \$175.00.

#### **V. Order**

Based upon the foregoing findings of fact and conclusions of law, it is, this \_\_\_\_\_ day of \_\_\_\_\_, 2001:

**ORDERED**, that Respondent shall pay a total of **ONE HUNDRED SEVENTY-FIVE DOLLARS (\$175.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715); and it is further

**ORDERED**, that, if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Code § 6-2713(f), the placement of a lien on real and personal property owned by Respondent pursuant to D.C. Code § 6-2713(i), and the sealing of Respondent's business premises or work sites pursuant to D.C. Code § 6-2703(b)(6).

**FILED                      07/19/02**

---

John P. Dean  
Administrative Judge